

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

DANIEL ERIC COBBLE,

Petitioner,

VS.

C. ASHLEY ROYAL, et. al.

Respondents.

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NO. 5:13-CV-00277-MTT-MSH

ORDER

Petitioner Daniel Eric Cobble, an inmate currently confined at Baldwin State Prison, in Hardwick, Georgia, filed a *pro se* “Writ of *Coram Nobis* and *Audita Querela*” (Doc. 1). After an initial review, conducted pursuant to 28 U.S.C. §1915 and 28 U.S.C. §1915A, the Court determined that Petitioner had not stated a cognizable claim for relief and was otherwise barred, under 28 U.S.C. §1915(g), from litigating his claims *in forma pauperis*. The petition was accordingly dismissed without prejudice. See Order, Aug. 12, 2013 (Doc. 9). Petitioner now seeks to appeal this dismissal and has filed a Motion to Proceed *in forma pauperis* on Appeal (Doc. 15).

In the Court’s best judgment, an appeal from the Court’s Order dismissing Petitioner’s pleading cannot be taken in good faith. Petitioner’s Motion to Proceed *in forma pauperis* on appeal is accordingly **DENIED**. See 28 U.S.C. § 1915(a)(3) (“An appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith.”); Fed. R. App. P. 24(a)(3) (“A party who was permitted to proceed *in forma pauperis* in the district-court action . . . may proceed on appeal *in forma pauperis* .

. . . unless . . . the district court . . . certifies that the appeal is not taken in good faith”).

If Petitioner wishes to proceed with his appeal, he must pay the entire \$ 455.00 appellate filing fee. Because Petitioner has stated that he cannot pay the \$ 455.00 immediately, he must pay using the partial payment plan described under 28 U.S.C. § 1915(b). Pursuant to § 1915(b), the prison account custodian where Petitioner is incarcerated shall cause to be remitted to the Clerk of this Court monthly payments of 20% of the preceding month's income credited to Petitioner's account until the \$ 455.00 appellate filing fee has been paid in full. Twenty percent of any deposits into the prisoner's account shall be withheld by the prison account custodian who, on a monthly basis, shall forward the amount withheld from the prisoner's account to the Clerk of this Court each time the amount in the account exceeds \$ 10.00 until the total filing fee of \$455.00 has been paid. Checks should be made payable to “Clerk, U.S. District Court.”

The Clerk of Court is **DIRECTED** to mail a copy of this Order to the custodian of the prison in which Petitioner is presently incarcerated.

Any further requests to proceed *in forma pauperis* on appeal should be directed, on motion, to the United States Court of Appeals for the Eleventh Circuit, in accordance with Rule 24 of the Federal Rules of Appellate Procedure.

SO ORDERED, this 1st day of October, 2013.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT

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